

# House File 2794 - Reprinted

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 776)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the policy and technical administration of the  
2 tax and related laws by the department of revenue, including  
3 administration of and tax exemptions under the income, sales,  
4 use, local option sales, and property taxes, updating the  
5 streamlined sales and use tax, and including effective and  
6 retroactive applicability date provisions.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
8 TLSB 6655HV 81  
9 mg/cf/24

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1 1 DIVISION I  
1 2 TAX ADMINISTRATION AND POLICY  
1 3 Section 1. Section 15E.193B, subsection 8, unnumbered  
1 4 paragraph 1, Code Supplement 2005, is amended to read as  
1 5 follows:  
1 6 The amount of the tax credits determined pursuant to  
1 7 subsection 6, paragraph "a", for each project shall be  
1 8 approved by the department of economic development. The  
1 9 department shall utilize the financial information required to  
1 10 be provided under subsection 5, paragraph "e", to determine  
1 11 the tax credits allowed for each project. In determining the  
1 12 amount of tax credits to be allowed for a project, the  
1 13 department shall not include the portion of the project cost  
1 14 financed through federal, state, and local government tax  
1 15 credits, grants, and forgivable loans. Upon approving the  
1 16 amount of the tax credit, the department of economic  
1 17 development shall issue a tax credit certificate to the  
1 18 eligible housing business except when low-income housing tax  
1 19 credits authorized under section 42 of the Internal Revenue  
1 20 Code are used to assist in the financing of the housing  
1 21 development in which case the tax credit certificate may be  
1 22 issued to a partner if the business is a partnership, a  
1 23 shareholder if the business is an S corporation, or a member  
1 24 if the business is a limited liability company in the amounts  
1 25 designated by the eligible partnership, S corporation, or  
1 26 limited liability company. An eligible housing business or  
1 27 the designated partner if the business is a partnership,  
1 28 designated shareholder if the business is an S corporation, or  
1 29 designated member if the business is a limited liability  
1 30 company, or transferee shall not claim the tax credit unless a  
1 31 tax credit certificate issued by the department of economic  
1 32 development is attached to the taxpayer's return for the tax  
1 33 year for which the tax credit is claimed. The tax credit  
1 34 certificate shall contain the taxpayer's name, address, tax  
1 35 identification number, the amount of the tax credit, and other  
2 1 information required by the department of revenue. The tax  
2 2 credit certificate shall be transferable if the housing  
2 3 development is located in a brownfield site as defined in  
2 4 section 15.291, if the housing development is located in a  
2 5 blighted area as defined in section 403.17, or if low-income  
2 6 housing tax credits authorized under section 42 of the  
2 7 Internal Revenue Code are used to assist in the financing of  
2 8 the housing development. Not more than three million dollars  
2 9 worth of tax credits for housing developments that are located  
2 10 in a brownfield site as defined in section 15.291 or housing  
2 11 developments located in a blighted area as defined in section  
2 12 403.17 shall be transferred in one calendar year. The three  
2 13 million dollar annual limit does not apply to tax credits  
2 14 awarded to an eligible housing business having low= income

2 15 housing tax credits authorized under section 42 of the  
2 16 Internal Revenue Code to assist in the financing of the  
2 17 housing development. The department may approve an  
2 18 application for tax credit certificates for transfer from an  
2 19 eligible housing business located in a brownfield site as  
2 20 defined in section 15.291 or in a blighted area as defined in  
2 21 section 403.17 that would result in the issuance of more than  
2 22 three million dollars of tax credit certificates for transfer  
2 23 provided the department, through negotiation with the eligible  
2 24 business, allocates those tax credit certificates for transfer  
2 25 over more than one calendar year. The department shall not  
2 26 ~~issue~~ approve more than one million five hundred thousand  
2 27 dollars in tax credit certificates for transfer to any one  
2 28 eligible housing business located in a brownfield site as  
2 29 defined in section 15.291 or in a blighted area as defined in  
2 30 section 403.17 in a calendar year. If three million dollars  
2 31 in tax credit certificates for transfer have not been issued  
2 32 at the end of a calendar year, the remaining tax credit  
2 33 certificates for transfer may be issued in advance to an  
2 34 eligible housing business scheduled to receive a tax credit  
2 35 certificate for transfer in a later calendar year. Any time  
3 1 the department ~~issues~~ approves a tax credit certificate for  
3 2 transfer which has not been allocated at the end of a calendar  
3 3 year, the department may prorate the remaining certificates to  
3 4 more than one eligible applicant. If the entire three million  
3 5 dollars of tax credit certificates for transfer is not issued  
3 6 in a given calendar year, the remaining amount may be carried  
3 7 over to a succeeding calendar year. Tax credit certificates  
3 8 issued under this chapter may be transferred to any person or  
3 9 entity. The department of economic development shall notify  
3 10 the department of revenue of the tax credit certificates which

3 11 have been approved for transfer. Within ninety days of  
3 12 transfer, the transferee must submit the transferred tax  
3 13 credit certificate to the department of ~~economic development~~  
3 14 revenue along with a statement containing the transferee's  
3 15 name, tax identification number, and address, and the  
3 16 denomination that each replacement tax credit certificate is  
3 17 to carry and any other information required by the department  
3 18 of revenue. Within thirty days of receiving the transferred  
3 19 tax credit certificate and the transferee's statement, the  
3 20 department of ~~economic development~~ revenue shall issue one or  
3 21 more replacement tax credit certificates to the transferee.  
3 22 Each replacement certificate must contain the information  
3 23 required to receive the original certificate and must have the  
3 24 same expiration date that appeared in the transferred tax  
3 25 credit certificate. Tax credit certificate amounts of less  
3 26 than the minimum amount established by rule of the department  
3 27 of economic development shall not be transferable. A tax  
3 28 credit shall not be claimed by a transferee under subsection  
3 29 6, paragraph "a", until a replacement tax credit certificate  
3 30 identifying the transferee as the proper holder has been  
3 31 issued.

3 32 Sec. 2. Section 68A.102, subsection 21, Code Supplement  
3 33 2005, is amended to read as follows:

3 34 21. "State income tax liability" means the state  
3 35 individual income tax imposed under section 422.5 ~~reduced by~~  
4 1 ~~the sum of the deductions from the computed tax as provided~~  
4 2 ~~under section 422.12, less the amounts of nonrefundable~~  
4 3 ~~credits allowed under chapter 422, division II.~~

4 4 Sec. 3. Section 257.21, unnumbered paragraph 2, Code 2005,  
4 5 is amended to read as follows:

4 6 The instructional support income surtax shall be imposed on  
4 7 the state individual income tax for the calendar year during  
4 8 which the school's budget year begins, or for a taxpayer's  
4 9 fiscal year ending during the second half of that calendar  
4 10 year and after the date the board adopts a resolution to  
4 11 participate in the program or the first half of the succeeding  
4 12 calendar year, and shall be imposed on all individuals  
4 13 residing in the school district on the last day of the  
4 14 applicable tax year. As used in this section, "state  
4 15 individual income tax" means the taxes computed under section  
4 16 422.5, less the amounts of nonrefundable credits allowed in  
4 17 sections 422.11A, 422.11B, 422.12, and 422.12B under chapter  
4 18 422, division II.

4 19 Sec. 4. Section 331.605B, Code 2005, is amended to read as  
4 20 follows:

4 21 331.605B FEES COLLECTED == AUDIT.

4 22 1. The recorder shall make available any information  
4 23 required by the county or state auditor concerning the fees  
4 24 collected under section 331.605A for the purposes of  
4 25 determining the amount of fees collected and the uses for

4 26 which such fees are expended.  
4 27 2. A recorder shall collect only statutorily authorized  
4 28 fees for land records management. A recorder shall not  
4 29 collect a fee for viewing, accessing, or printing documents in  
4 30 the county land record information system unless specifically  
4 31 authorized by statute. However, a recorder may collect actual  
4 32 third-party fees associated with accepting and processing  
4 33 statutorily authorized fees including credit card fees,  
4 34 treasury management fees, and other transaction fees required  
4 35 to enable electronic payment. For the purposes of this  
5 1 subsection, the term "third-party" does not include the county  
5 2 land record information system, the Iowa state association of  
5 3 counties, or any of the association's affiliates.

5 4 Sec. 5. Section 368.11, subsection 3, paragraph m, Code  
5 5 Supplement 2005, is amended to read as follows:  
5 6 m. In the discretion of a city council, a provision for a  
5 7 transition for the imposition of city taxes against property  
5 8 within an annexation area. The provision shall allow for an  
5 9 exemption from taxation of the following percentages of  
5 10 assessed valuation according to the following schedule:  
5 11 (1) For the first and second years, seventy-five percent.  
5 12 (2) For the third and fourth years, sixty percent.  
5 13 (3) For the fifth and sixth years, forty-five percent.  
5 14 (4) For the seventh and eighth years, thirty percent.  
5 15 (5) For the ninth and tenth years, fifteen percent.  
5 16 An alternative schedule may be adopted by the city council.  
5 17 However, an alternative schedule shall not allow a greater  
5 18 exemption than that provided in this paragraph. The exemption  
5 19 shall be applied in the levy and collection of taxes. The  
5 20 provision may also allow for the partial provision of city  
5 21 services during the time in which the exemption from taxation  
5 22 is in effect. If the city council provides for a transition  
5 23 for the imposition of city taxes against property in an  
5 24 annexation area, all property owners included in the  
5 25 annexation area must receive the transition upon completion of  
5 26 the annexation.

5 27 Sec. 6. Section 404A.4, subsection 5, unnumbered paragraph  
5 28 1, Code Supplement 2005, is amended to read as follows:  
5 29 Tax credit certificates issued under this chapter may be  
5 30 transferred to any person or entity. Within ninety days of  
5 31 transfer, the transferee must submit the transferred tax  
5 32 credit certificate to the ~~state historic preservation office~~  
5 33 department of revenue along with a statement containing the  
5 34 transferee's name, tax identification number, and address, and  
5 35 the denomination that each replacement tax credit certificate  
6 1 is to carry and any other information required by the  
6 2 department of revenue. Within thirty days of receiving the  
6 3 transferred tax credit certificate and the transferee's  
6 4 statement, the ~~office~~ department of revenue shall issue one or  
6 5 more replacement tax credit certificates to the transferee.  
6 6 Each replacement certificate must contain the information  
6 7 required under subsection 2 and must have the same expiration  
6 8 date that appeared in the transferred tax credit certificate.  
6 9 Tax credit certificate amounts of less than the minimum amount  
6 10 established by rule of the ~~state historic preservation~~ office  
6 11 shall not be transferable. A tax credit shall not be claimed  
6 12 by a transferee under this chapter until a replacement tax  
6 13 credit certificate identifying the transferee as the proper  
6 14 holder has been issued.

6 15 Sec. 7. Section 421.17, subsection 14, Code Supplement  
6 16 2005, is amended by striking the subsection.

6 17 Sec. 8. Section 422.5, subsection 1, paragraph j,  
6 18 subparagraph (2), unnumbered paragraph 2, Code 2005, is  
6 19 amended to read as follows:

6 20 This subparagraph shall not affect the amount of the  
6 21 taxpayer's ~~checkoff to the Iowa election campaign fund under~~  
6 22 ~~section 68A.601, the checkoff for the fish and game fund in~~  
6 23 ~~section 456A.16 checkoffs under this division, the credits~~  
6 24 ~~from tax provided in sections 422.10, 422.11A, and 422.12~~  
6 25 ~~under this division, and the allocation of these credits~~  
6 26 ~~between spouses if the taxpayers filed separate returns or~~  
6 27 ~~separately on combined returns.~~

6 28 Sec. 9. Section 422.5, subsection 1, paragraph k,  
6 29 subparagraph (2), subparagraph subdivision (b), Code 2005, is  
6 30 amended to read as follows:

6 31 (b) Twenty-six thousand dollars for a single person or ~~an~~  
6 32 ~~unmarried~~ a head of household.

6 33 Sec. 10. Section 422.5, subsection 2, Code 2005, is  
6 34 amended to read as follows:

6 35 2. However, the tax shall not be imposed on a resident or  
7 1 nonresident whose net income, as defined in section 422.7, is

7 2 thirteen thousand five hundred dollars or less in the case of  
7 3 married persons filing jointly or filing separately on a  
7 4 combined return, ~~unmarried~~ heads of household, and surviving  
7 5 spouses or nine thousand dollars or less in the case of all  
7 6 other persons; but in the event that the payment of tax under  
7 7 this division would reduce the net income to less than  
7 8 thirteen thousand five hundred dollars or nine thousand  
7 9 dollars as applicable, then the tax shall be reduced to that  
7 10 amount which would result in allowing the taxpayer to retain a  
7 11 net income of thirteen thousand five hundred dollars or nine  
7 12 thousand dollars as applicable. The preceding sentence does  
7 13 not apply to estates or trusts. For the purpose of this  
7 14 subsection, the entire net income, including any part of the  
7 15 net income not allocated to Iowa, shall be taken into account.  
7 16 For purposes of this subsection, net income includes all  
7 17 amounts of pensions or other retirement income received from  
7 18 any source which is not taxable under this division as a  
7 19 result of the government pension exclusions in section 422.7,  
7 20 or any other state law. If the combined net income of a  
7 21 husband and wife exceeds thirteen thousand five hundred  
7 22 dollars, neither of them shall receive the benefit of this  
7 23 subsection, and it is immaterial whether they file a joint  
7 24 return or separate returns. However, if a husband and wife  
7 25 file separate returns and have a combined net income of  
7 26 thirteen thousand five hundred dollars or less, neither spouse  
7 27 shall receive the benefit of this paragraph, if one spouse has  
7 28 a net operating loss and elects to carry back or carry forward  
7 29 the loss as provided in section 422.9, subsection 3. A person  
7 30 who is claimed as a dependent by another person as defined in  
7 31 section 422.12 shall not receive the benefit of this  
7 32 subsection if the person claiming the dependent has net income  
7 33 exceeding thirteen thousand five hundred dollars or nine  
7 34 thousand dollars as applicable or the person claiming the  
7 35 dependent and the person's spouse have combined net income  
8 1 exceeding thirteen thousand five hundred dollars or nine  
8 2 thousand dollars as applicable.

8 3 In addition, if the married persons', filing jointly or  
8 4 filing separately on a combined return, ~~unmarried~~ head of  
8 5 household's, or surviving spouse's net income exceeds thirteen  
8 6 thousand five hundred dollars, the regular tax imposed under  
8 7 this division shall be the lesser of the maximum state  
8 8 individual income tax rate times the portion of the net income  
8 9 in excess of thirteen thousand five hundred dollars or the  
8 10 regular tax liability computed without regard to this  
8 11 sentence. Taxpayers electing to file separately shall compute  
8 12 the alternate tax described in this paragraph using the total  
8 13 net income of the husband and wife. The alternate tax  
8 14 described in this paragraph does not apply if one spouse  
8 15 elects to carry back or carry forward the loss as provided in  
8 16 section 422.9, subsection 3.

8 17 Sec. 11. Section 422.6, unnumbered paragraph 1, Code 2005,  
8 18 is amended to read as follows:

8 19 The tax imposed by section 422.5 less the amounts of  
8 20 ~~nonrefundable credits allowed under sections 15.333, 15.335,~~

~~8 21 422.10, 422.11, 422.11A, and 422.11B, and the personal~~  
8 22 ~~exemption credit allowed under section 422.12~~ this division  
8 23 apply to and are a charge against estates and trusts with  
8 24 respect to their taxable income, and the rates are the same as  
8 25 those applicable to individuals. The fiduciary shall make the  
8 26 return of income for the estate or trust for which the  
8 27 fiduciary acts, whether the income is taxable to the estate or  
8 28 trust or to the beneficiaries. However, for tax years ending  
8 29 after August 5, 1997, if the trust is a qualified preneed  
8 30 funeral trust as set forth in section 685 of the Internal  
8 31 Revenue Code and the trustee has elected the special tax  
8 32 treatment under section 685 of the Internal Revenue Code,  
8 33 neither the trust nor the beneficiary is subject to Iowa  
8 34 income tax on income accruing to the trust.

8 35 Sec. 12. Section 422.7, subsection 21, paragraph a,  
9 1 subparagraph (1), unnumbered paragraph 1, Code Supplement  
9 2 2005, is amended to read as follows:

9 3 Net capital gain from the sale of real property used in a  
9 4 business, in which the taxpayer materially participated for  
9 5 ten years, as defined in section 469(h) of the Internal  
9 6 Revenue Code, and which has been held for a minimum of ten  
9 7 years, or from the sale of a business, as defined in section  
9 8 423.1, ~~in which the taxpayer was employed or~~ in which the  
9 9 taxpayer materially participated for ten years, as defined in  
9 10 section 469(h) of the Internal Revenue Code, and which has  
9 11 been held for a minimum of ten years. The sale of a business  
9 12 means the sale of all or substantially all of the tangible

9 13 personal property or service of the business.

9 14 Sec. 13. Section 422.9, subsection 1, Code Supplement  
9 15 2005, is amended to read as follows:

9 16 1. An optional standard deduction, after deduction of  
9 17 federal income tax, equal to one thousand two hundred thirty  
9 18 dollars for a married person who files separately or a single  
9 19 person or equal to three thousand thirty dollars for a husband  
9 20 and wife who file a joint return, a surviving spouse, or ~~an~~  
9 21 ~~unmarried~~ a head of household. The optional standard  
9 22 deduction shall not exceed the amount remaining after  
9 23 deduction of the federal income tax. The amount of federal  
9 24 income tax deducted shall be computed as provided in  
9 25 subsection 2, paragraph "b".

9 26 Sec. 14. Section 422.10, subsection 4, Code Supplement  
9 27 2005, is amended to read as follows:

9 28 4. Any credit in excess of the tax liability imposed by  
9 29 section 422.5 less the amounts of nonrefundable credits  
9 30 allowed under sections 422.11A, 422.12, and 422.12B this  
9 31 division for the taxable year shall be refunded with interest  
9 32 computed under section 422.25. In lieu of claiming a refund,  
9 33 a taxpayer may elect to have the overpayment shown on the  
9 34 taxpayer's final, completed return credited to the tax  
9 35 liability for the following taxable year.

10 1 Sec. 15. Section 422.10, Code Supplement 2005, is amended  
10 2 by adding the following new subsection:

10 3 NEW SUBSECTION. 5. An individual may claim an additional  
10 4 research activities credit authorized pursuant to section  
10 5 15.335 if the eligible business is a partnership, S  
10 6 corporation, limited liability company, or estate or trust  
10 7 which elects to have the income taxed directly to the  
10 8 individual. The amount of the credit shall be as provided in  
10 9 section 15.335.

10 10 Sec. 16. Section 422.11, Code 2005, is amended to read as  
10 11 follows:

10 12 422.11 FRANCHISE TAX CREDIT.

10 13 The taxes imposed under this division, less the credits  
10 14 allowed under ~~section~~ sections 422.12 and 422.12B, shall be  
10 15 reduced by a franchise tax credit. A taxpayer who is a  
10 16 shareholder in a financial institution, as defined in section  
10 17 581 of the Internal Revenue Code, which has in effect for the  
10 18 tax year an election under subchapter S of the Internal  
10 19 Revenue Code, or is a member of a financial institution  
10 20 organized as a limited liability company under chapter 524  
10 21 that is taxed as a partnership for federal income tax  
10 22 purposes, shall compute the amount of the tax credit by  
10 23 recomputing the amount of tax under this division by reducing  
10 24 the taxable income of the taxpayer by the taxpayer's pro rata  
10 25 share of the items of income and expense of the financial  
10 26 institution and subtracting the credits allowed under ~~section~~  
10 27 sections 422.12 and 422.12B. This recomputed tax shall be  
10 28 subtracted from the amount of tax computed under this division  
10 29 after the deduction for credits allowed under ~~section~~ sections  
10 30 422.12 and 422.12B. The resulting amount, which shall not  
10 31 exceed the taxpayer's pro rata share of the franchise tax paid  
10 32 by the financial institution, is the amount of the franchise  
10 33 tax credit allowed.

10 34 Sec. 17. Section 422.11B, subsection 1, unnumbered  
10 35 paragraph 2, Code 2005, is amended to read as follows:

11 1 The minimum tax credit for a tax year is the excess, if  
11 2 any, of the ~~adjusted~~ net minimum tax imposed for all prior tax  
11 3 years beginning on or after January 1, 1987, over the amount  
11 4 allowable as a credit under this section for those prior tax  
11 5 years.

11 6 Sec. 18. Section 422.11B, subsection 2, unnumbered  
11 7 paragraph 3, Code 2005, is amended to read as follows:

11 8 ~~The adjusted net minimum tax for a tax year is the net~~  
11 9 ~~minimum tax for the tax year reduced by the amount which would~~  
11 10 ~~be the net minimum tax if the only item of tax preference~~  
11 11 ~~taken into account was that described in paragraph (6) of~~  
11 12 ~~section 57(a) of the Internal Revenue Code.~~

11 13 Sec. 19. Section 422.11F, Code 2005, is amended to read as  
11 14 follows:

11 15 422.11F INVESTMENT TAX CREDITS.

11 16 1. The taxes imposed under this division, less the credits  
11 17 allowed under sections 422.12 and 422.12B, shall be reduced by  
11 18 an investment tax credit authorized pursuant to section 15E.43  
11 19 for an investment in a qualifying business or a community-  
11 20 based seed capital fund.

11 21 2. The taxes imposed under this division, less the credits  
11 22 allowed under sections 422.12 and 422.12B, shall be reduced by  
11 23 investment tax credits authorized pursuant to sections 15.333

11 24 and 15E.193B, subsection 6.

11 25 Sec. 20. NEW SECTION. 422.11M IOWA FUND OF FUNDS TAX  
11 26 CREDIT.

11 27 The taxes imposed under this division, less the credits  
11 28 allowed under sections 422.12 and 422.12B, shall be reduced by  
11 29 a tax credit authorized pursuant to section 15E.66, if  
11 30 redeemed, for investments in the Iowa fund of funds.

11 31 Sec. 21. Section 422.12, subsection 3, Code 2005, is  
11 32 amended to read as follows:

11 33 3. For the purpose of this section, the determination of  
11 34 whether an individual is married shall be made ~~as of the close~~  
~~11 35 of the individual's tax year unless the individual's spouse~~  
~~12 1 dies during the individual's tax year, in which case the~~  
~~12 2 determination shall be made as of the date of the spouse's~~  
~~12 3 death in accordance with section 7703 of the Internal Revenue~~  
~~12 4 Code. An individual legally separated from the individual's~~  
~~12 5 spouse under a decree of divorce or of separate maintenance~~  
~~12 6 shall not be considered married.~~

12 7 Sec. 22. Section 422.12A, subsection 2, Code 2005, is  
12 8 amended to read as follows:

12 9 2. The director of revenue shall draft the income tax form  
12 10 to allow the designation of contributions to the keep Iowa  
12 11 beautiful fund on the tax return. The department of revenue,  
12 12 on or before January 31, shall transfer the total amount  
12 13 designated on the tax return forms due in the preceding  
12 14 calendar year to the keep Iowa beautiful fund. However,  
12 15 before a checkoff pursuant to this section shall be permitted,  
12 16 all liabilities on the books of the department of ~~revenue~~  
12 17 administrative services and accounts identified as owing under  
12 18 section ~~421.17~~ 8A.504 and the political contribution allowed  
12 19 under section 68A.601 shall be satisfied.

12 20 Sec. 23. Section 422.12C, subsection 1, unnumbered  
12 21 paragraph 1, Code Supplement 2005, is amended to read as  
12 22 follows:

12 23 The taxes imposed under this division, less the amounts of  
~~12 24 nonrefundable~~ credits allowed under ~~sections 422.11A, 422.11B,~~  
~~12 25 422.12, and 422.12B~~ this division, shall be reduced by a child  
12 26 and dependent care credit equal to the following percentages  
12 27 of the federal child and dependent care credit provided in  
12 28 section 21 of the Internal Revenue Code:

12 29 Sec. 24. Section 422.12C, subsection 2, paragraph a,  
12 30 unnumbered paragraph 1, Code Supplement 2005, is amended to  
12 31 read as follows:

12 32 ~~In lieu of the child and dependent care credit authorized~~  
~~12 33 in subsection 1, a taxpayer may claim The taxes imposed under~~  
~~12 34 this division, less the amounts of nonrefundable credits~~  
~~12 35 allowed under this division, may be reduced by an early~~  
13 1 childhood development tax credit equal to twenty-five percent  
13 2 of the first one thousand dollars which the taxpayer has paid  
13 3 to others for each dependent, as defined in the Internal  
13 4 Revenue Code, ages three through five for early childhood  
13 5 development expenses. In determining the amount of early  
13 6 childhood development expenses for the tax year beginning in  
13 7 the 2006 calendar year only, such expenses paid during

13 8 November and December of the previous tax year shall be  
13 9 considered paid in the tax year for which the tax credit is  
13 10 claimed. This credit is available to a taxpayer whose net  
13 11 income is less than forty-five thousand dollars. If the early  
13 12 childhood development tax credit is claimed for a tax year,  
13 13 the taxpayer and the taxpayer's spouse shall not claim the  
13 14 child and dependent care credit under subsection 1. As used  
13 15 in this subsection, "early childhood development expenses"  
13 16 means services provided to the dependent by a preschool, as  
13 17 defined in section 237A.1, materials, and other activities as  
13 18 follows:

13 19 Sec. 25. Section 422.12C, subsection 2, paragraph b, Code  
13 20 Supplement 2005, is amended by striking the paragraph.

13 21 Sec. 26. Section 422.12F, subsection 2, Code 2005, is  
13 22 amended to read as follows:

13 23 2. The director of revenue shall draft the income tax form  
13 24 to allow the designation of contributions to the volunteer  
13 25 fire fighter preparedness fund on the tax return. The  
13 26 department of revenue, on or before January 31, shall certify  
13 27 the total amount designated on the tax return forms due in the  
13 28 preceding calendar year and shall report the amount to the  
13 29 treasurer of state. The treasurer of state shall credit the  
13 30 amount to the volunteer fire fighter preparedness fund.  
13 31 However, before a checkoff pursuant to this section shall be  
13 32 permitted, all liabilities on the books of the department of  
13 33 ~~revenue~~ administrative services and accounts identified as  
13 34 owing under section ~~421.17~~ 8A.504 and the political

13 35 contribution allowed under section 68A.601 shall be satisfied.

14 1 Sec. 27. NEW SECTION. 422.12G INCOME TAX CHECKOFF FOR  
14 2 IOWA ELECTION CAMPAIGN FUND.

14 3 A person who files an individual or a joint income tax  
14 4 return with the department of revenue under section 422.13 may  
14 5 designate a contribution to the Iowa election campaign fund  
14 6 authorized pursuant to section 68A.601.

14 7 Sec. 28. NEW SECTION. 422.12H INCOME TAX CHECKOFF FOR  
14 8 FISH AND GAME PROTECTION FUND.

14 9 A person who files an individual or a joint income tax  
14 10 return with the department of revenue under section 422.13 may  
14 11 designate a contribution to the state fish and game protection  
14 12 fund authorized pursuant to section 456A.16.

14 13 Sec. 29. Section 422.33, subsection 5, Code Supplement  
14 14 2005, is amended by adding the following new paragraphs:

14 15 NEW PARAGRAPH. f. A corporation which is a primary  
14 16 business or a supporting business in a quality jobs enterprise  
14 17 zone may claim the research activities credit authorized  
14 18 pursuant to section 15A.9, subsection 8, in lieu of the credit  
14 19 computed in paragraph "a" or "b".

14 20 NEW PARAGRAPH. g. A corporation which is an eligible  
14 21 business may claim an additional research activities credit  
14 22 authorized pursuant to section 15.335.

14 23 Sec. 30. Section 422.33, subsection 7, paragraph a,  
14 24 unnumbered paragraph 2, Code Supplement 2005, is amended to  
14 25 read as follows:

14 26 The minimum tax credit for a tax year is the excess, if  
14 27 any, of the ~~adjusted~~ net minimum tax imposed for all prior tax  
14 28 years beginning on or after January 1, 1987, over the amount  
14 29 allowable as a credit under this subsection for those prior  
14 30 tax years.

14 31 Sec. 31. Section 422.33, subsection 7, paragraph b,  
14 32 unnumbered paragraph 3, Code Supplement 2005, is amended to  
14 33 read as follows:

~~14 34 The adjusted net minimum tax for a tax year is the net  
14 35 minimum tax for the tax year reduced by the amount which would  
15 1 be the net minimum tax if the only item of tax preference  
15 2 taken into account was that described in paragraph (6) of  
15 3 section 57(a) of the Internal Revenue Code.~~

15 4 Sec. 32. Section 422.33, subsection 12, Code Supplement  
15 5 2005, is amended to read as follows:

15 6 12. a. The taxes imposed under this division shall be  
15 7 reduced by an investment tax credit authorized pursuant to  
15 8 section 15E.43 for an investment in a qualifying business or a  
15 9 community-based seed capital fund.

~~15 10 b. The taxes imposed under this division shall be reduced  
15 11 by investment tax credits authorized pursuant to sections  
15 12 15.333, 15A.9, subsection 4, and 15E.193B, subsection 6.~~

15 13 Sec. 33. Section 422.33, Code Supplement 2005, is amended  
15 14 by adding the following new subsections:

15 15 NEW SUBSECTION. 20. The taxes imposed under this division  
15 16 shall be reduced by a corporate tax credit authorized pursuant  
15 17 to section 15.331C for certain sales taxes paid by a  
15 18 third-party developer.

15 19 NEW SUBSECTION. 21. The taxes imposed under this division  
15 20 shall be reduced by a tax credit authorized pursuant to  
15 21 section 15E.66, if redeemed, for investments in the Iowa fund  
15 22 of funds.

15 23 Sec. 34. Section 422.60, subsection 2, paragraphs a and b,  
15 24 Code Supplement 2005, are amended to read as follows:

15 25 a. Add items of tax preference included in federal  
15 26 alternative minimum taxable income under section 57, except  
15 27 subsections (a)(1) and (a)(5), of the Internal Revenue Code,  
15 28 make the adjustments included in federal alternative minimum  
15 29 taxable income under section 56, except subsections (a)(4),  
15 30 (c)(1), (d), ~~(f)~~, and (g), of the Internal Revenue Code, and  
15 31 add losses as required by section 58 of the Internal Revenue  
15 32 Code.

15 33 b. Make the adjustments provided in section 56(c)(1) of  
15 34 the Internal Revenue Code, except that in making the  
15 35 calculation under ~~sections 56(f)(1) and section 56(g)(1)~~ of  
16 1 the Internal Revenue Code the state alternative minimum  
16 2 taxable income, computed without regard to the adjustments  
16 3 made by this paragraph, the exemption provided for in  
16 4 paragraph "d", and the state alternative tax net operating  
16 5 loss described in paragraph "e", shall be substituted for the  
16 6 items described in ~~sections 56(f)(1)(B) and section~~  
16 7 ~~56(g)(1)(B)~~ of the Internal Revenue Code.

16 8 Sec. 35. Section 422.60, subsection 3, paragraph a,  
16 9 unnumbered paragraph 2, Code Supplement 2005, is amended to  
16 10 read as follows:

16 11 The minimum tax credit for a tax year is the excess, if  
16 12 any, of the ~~adjusted~~ net minimum tax imposed for all prior tax  
16 13 years beginning on or after January 1, 1987, over the amount  
16 14 allowable as a credit under this subsection for those prior  
16 15 tax years.

16 16 Sec. 36. Section 422.60, subsection 3, paragraph b,  
16 17 unnumbered paragraph 3, Code Supplement 2005, is amended to  
16 18 read as follows:

~~16 19 The adjusted net minimum tax for a tax year is the net  
16 20 minimum tax for the tax year reduced by the amount which would  
16 21 be the net minimum tax if the only item of tax preference  
16 22 taken into account was that described in paragraph (6) of  
16 23 section 57(a) of the Internal Revenue Code.~~

16 24 Sec. 37. Section 422.60, subsection 5, Code Supplement  
16 25 2005, is amended to read as follows:

16 26 5. a. The taxes imposed under this division shall be  
16 27 reduced by an investment tax credit authorized pursuant to  
16 28 section 15E.43 for an investment in a qualifying business or a  
16 29 community-based seed capital fund.

16 30 b. The taxes imposed under this division shall be reduced  
16 31 by investment tax credits authorized pursuant to sections  
16 32 15.333 and 15E.193B, subsection 6.

16 33 Sec. 38. Section 422.60, Code Supplement 2005, is amended  
16 34 by adding the following new subsections:

16 35 NEW SUBSECTION. 11. The taxes imposed under this division  
17 1 shall be reduced by a corporate tax credit authorized pursuant  
17 2 to section 15.331C for certain sales taxes paid by a  
17 3 third-party developer.

17 4 NEW SUBSECTION. 12. The taxes imposed under this division  
17 5 shall be reduced by a tax credit authorized pursuant to  
17 6 section 15E.66, if redeemed, for investments in the Iowa fund  
17 7 of funds.

17 8 Sec. 39. Section 422D.2, Code 2005, is amended to read as  
17 9 follows:

17 10 422D.2 LOCAL INCOME SURTAX.

17 11 A county may impose by ordinance a local income surtax as  
17 12 provided in section 422D.1 at the rate set by the board of  
17 13 supervisors, of up to one percent, on the state individual  
17 14 income tax of each individual residing in the county at the  
17 15 end of the individual's applicable tax year. However, the  
17 16 cumulative total of the percents of income surtax imposed on  
17 17 any taxpayer in the county shall not exceed twenty percent.  
17 18 The reason for imposing the surtax and the amount needed shall  
17 19 be set out in the ordinance. The surtax rate shall be set to  
17 20 raise only the amount needed. For purposes of this section,  
17 21 "state individual income tax" means the tax computed under  
17 22 section 422.5, less the amounts of nonrefundable credits  
17 23 allowed in sections 422.11A, 422.11B, 422.12, and 422.12B  
17 24 under chapter 422, division II.

17 25 Sec. 40. Section 423.3, subsection 18, Code Supplement  
17 26 2005, is amended by adding the following new paragraph:

17 27 NEW PARAGRAPH. f. Home and community based services  
17 28 providers certified to offer Medicaid waiver services by the  
17 29 department of human services that are any of the following:

17 30 (1) Ill and handicapped waiver service providers,  
17 31 described in 441 IAC 77.30.

17 32 (2) Hospice providers, described in 441 IAC 77.32.

17 33 (3) Elderly waiver service providers, described in 441 IAC  
17 34 77.33.

17 35 (4) AIDS/HIV waiver service providers, described in 441  
18 1 IAC 77.34.

18 2 (5) Federally qualified health centers, described in 441  
18 3 IAC 77.35.

18 4 (6) MR waiver service providers, described in 441 IAC  
18 5 77.37.

18 6 (7) Brain injury waiver service providers, described in  
18 7 441 IAC 77.39.

18 8 Sec. 41. Section 423.3, subsection 39, Code Supplement  
18 9 2005, is amended by adding the following new paragraph:

18 10 NEW PARAGRAPH. c. Notwithstanding paragraph "a", the  
18 11 sale, furnishing, or performance of a service that is of a  
18 12 recurring nature by the owner if, at the time of the sale, all  
18 13 of the following apply:

18 14 (1) The seller is not engaged for profit in the business  
18 15 of the selling, furnishing, or performance of services taxed  
18 16 under section 423.2. For purposes of this subparagraph, the  
18 17 fact of the recurring nature of selling, furnishing, or  
18 18 performance of services does not constitute by itself engaging  
18 19 for profit in the business of selling, furnishing, or  
18 20 performance of services.

18 21 (2) The owner of the business is the only person

18 22 performing the service.

18 23 (3) The owner of the business is a full-time student.

18 24 (4) The total gross receipts from the sales, furnishing,  
18 25 or performance of services during the calendar year does not  
18 26 exceed five thousand dollars.

18 27 Sec. 42. Section 423.3, subsection 50, Code Supplement  
18 28 2005, is amended to read as follows:

18 29 50. The sales price of sales of electricity, steam, or any  
18 30 taxable service when purchased and used in the processing of  
18 31 tangible personal property intended to be sold ultimately at  
18 32 retail or of any fuel which is consumed in creating power,  
18 33 heat, or steam for processing or for generating electric  
18 34 current.

18 35 Sec. 43. Section 423.3, subsection 86, Code Supplement  
19 1 2005, is amended to read as follows:

19 2 86. The sales price from services performed on a vessel if  
19 3 all of the following apply:

19 4 a. The vessel is a licensed vessel under the laws of the  
19 5 United States coast guard.

19 6 ~~b. The vessel is not moored or tied to a physical location  
19 7 in this state.~~

19 8 ~~c. b.~~ The service is used to repair or restore a defect  
19 9 in the vessel.

19 10 ~~d. c.~~ The vessel is engaged in interstate commerce and  
19 11 will continue in interstate commerce once the repairs or  
19 12 restoration is completed.

19 13 ~~e. d.~~ The vessel is in navigable water that borders ~~the~~  
19 14 ~~eastern~~ a boundary of this state.

19 15 For purposes of this exemption, "vessel" includes a ship,  
19 16 barge, or other waterborne vessel.

19 17 Sec. 44. Section 423.3, Code Supplement 2005, is amended  
19 18 by adding the following new subsection:

19 19 NEW SUBSECTION. 89. a. The sales price from the sale of  
19 20 coins, currency, or bullion.

19 21 b. For purposes of this subsection:

19 22 (1) "Bullion" means bars, ingots, or commemorative  
19 23 medallions of gold, silver, platinum, palladium, or a  
19 24 combination of these where the value of the metal depends on  
19 25 its content and not the form.

19 26 (2) "Coins" or "currency" means a coin or currency made of  
19 27 gold, silver, or other metal or paper which is or has been  
19 28 used as legal tender.

19 29 Sec. 45. Section 423.6, subsection 10, Code 2005, is  
19 30 amended by adding the following new unnumbered paragraph:

19 31 NEW UNNUMBERED PARAGRAPH. This exemption applies to  
19 32 corporations that have been in existence for not longer than  
19 33 twenty-four months.

19 34 Sec. 46. Section 423.6, Code 2005, is amended by adding  
19 35 the following new subsection:

20 1 NEW SUBSECTION. 25. Exempted from the purchase price of a  
20 2 replacement motor vehicle owned by a motor vehicle dealer  
20 3 licensed under chapter 322 which is being registered by that  
20 4 dealer and is not otherwise exempt from tax is the fair market  
20 5 value of a replaced motor vehicle if all of the following  
20 6 conditions are met:

20 7 a. The motor vehicle being registered is being placed in  
20 8 service as a replacement motor vehicle for a motor vehicle  
20 9 registered by the motor vehicle dealer.

20 10 b. The motor vehicle being registered is taken from the  
20 11 motor vehicle dealer's inventory.

20 12 c. Use tax on the motor vehicle being replaced was paid by  
20 13 the motor vehicle dealer when that motor vehicle was  
20 14 registered.

20 15 d. The replaced motor vehicle is returned to the motor  
20 16 vehicle dealer's inventory for sale.

20 17 e. The application for registration and title of the motor  
20 18 vehicle being registered is filed with the county treasurer  
20 19 within two weeks of the date the replaced motor vehicle is  
20 20 returned to the motor vehicle dealer's inventory.

20 21 f. The motor vehicle being registered is placed in the  
20 22 same or substantially similar service as the replaced motor  
20 23 vehicle.

20 24 Sec. 47. Section 423.8, Code 2005, is amended to read as  
20 25 follows:

20 26 423.8 LEGISLATIVE FINDING AND INTENT.

20 27 The general assembly finds that Iowa should enter into an  
20 28 agreement with one or more states to simplify and modernize  
20 29 sales and use tax administration in order to substantially  
20 30 reduce the burden of tax compliance for all sellers and for  
20 31 all types of commerce. It is the intent of the general  
20 32 assembly that entering into this agreement will lead to

20 33 simplification and modernization of the sales and use tax law  
20 34 and not to the imposition of new taxes or an increase or  
20 35 decrease in the existing number of exemptions, unless such a  
21 1 result is unavoidable under the terms of the agreement.  
21 2 Entering into this agreement should not cause businesses to  
21 3 sustain additional administrative burden.

21 4 It is the intent of the general assembly to provide Iowa  
21 5 sellers, impacted by the agreement, with the assistance  
21 6 necessary to alleviate administrative burdens that result in  
21 7 participation in the agreement. The director and the Iowa  
21 8 streamlined sales tax advisory council shall provide  
21 9 recommendations to address the new administrative burden  
21 10 identified in the Iowa streamlined sales tax advisory council  
21 11 2005 report submitted to the Iowa general assembly. The  
21 12 recommendations must be submitted to the general assembly by  
21 13 January 1, 2007, and shall include the expenses associated and  
21 14 all relevant data including but not limited to the number of  
21 15 intrastate sellers impacted by the agreement.

21 16 Sec. 48. Section 423.9, Code 2005, is amended to read as  
21 17 follows:

21 18 423.9 AUTHORITY TO ENTER AGREEMENT AND TO REPRESENT THE  
21 19 STATE.

21 20 1. The director is authorized and directed to enter into  
21 21 the streamlined sales and use tax agreement with one or more  
21 22 states to simplify and modernize sales and use tax  
21 23 administration in order to substantially reduce the burden of  
21 24 tax compliance for all sellers and for all types of commerce.

21 25 2. The director is further authorized to take other  
21 26 actions reasonably required to implement the provisions set  
21 27 forth in this chapter. Other actions authorized by this  
21 28 section include, but are not limited to, the adoption of rules  
21 29 and the joint procurement, with other member states, of goods  
21 30 and services in furtherance of the cooperative agreement.

21 31 ~~The director or the director's designee is authorized to be~~  
21 32 ~~a member of the governing board established pursuant to the~~  
21 33 ~~agreement and to represent Iowa before that body.~~

21 34 3. Four representatives are authorized to be members of  
21 35 the governing board established pursuant to the agreement and  
22 1 to represent Iowa before that body as one vote. The  
22 2 representatives shall be appointed as follows:

22 3 a. One representative shall be a member of the house of  
22 4 representatives who is appointed by the speaker of the house  
22 5 of representatives or the delegate's designee who shall also  
22 6 be a member of the house of representatives.

22 7 b. One representative shall be a member of the senate who  
22 8 is appointed by the majority leader of the senate or the  
22 9 delegate's designee who shall also be a member of the senate.

22 10 c. Two representatives from the executive branch shall be  
22 11 appointed by the governor, one of whom shall be the director,  
22 12 or each delegate's designee who shall also be employed by the  
22 13 executive branch.

22 14 Sec. 49. NEW SECTION. 423.9A IOWA STREAMLINED SALES TAX  
22 15 ADVISORY COUNCIL.

22 16 1. An Iowa streamlined sales tax advisory council is  
22 17 created. The advisory council shall review, study, and submit  
22 18 recommendations to the Iowa streamlined sales and use tax  
22 19 representatives appointed pursuant to section 423.9,  
22 20 subsection 3, regarding the streamlined sales and use tax  
22 21 agreement formalized by the project's member states on  
22 22 November 12, 2002, agreement amendments, proposed language  
22 23 conforming Iowa's sales and use tax to the national agreement,  
22 24 and the following issues:

22 25 a. Uniform definitions proposed in the current agreement  
22 26 and future proposals.  
22 27 b. Effects upon taxability of items newly defined in Iowa.  
22 28 c. Impacts upon business as a result of the agreement.  
22 29 d. Technology implementation issues.  
22 30 e. Any other issues that are brought before the  
22 31 streamlined sales and use tax member state or the streamlined  
22 32 sales and use tax governing board.

22 33 2. The department shall provide administrative support to  
22 34 the Iowa streamlined sales tax advisory council. The advisory  
22 35 council shall be representative of Iowa's business community  
23 1 and economy when reviewing and recommending solutions to  
23 2 streamlined sales and use tax issues. The advisory council  
23 3 shall provide the general assembly and the governor with final  
23 4 recommendations made to the Iowa streamlined sales and use tax  
23 5 representatives upon the conclusion of each calendar year.

23 6 3. The director, in consultation with the Iowa taxpayers  
23 7 association, Iowa retail federation, and the Iowa association  
23 8 of business and industry, shall appoint members to the Iowa

23 9 streamlined sales tax advisory council, which shall consist of  
23 10 the following members:

23 11 a. One member from the department.

23 12 b. Three members representing small Iowa businesses, at  
23 13 least one of whom must be a retailer, and at least one of whom  
23 14 shall be a supplier.

23 15 c. Three members representing medium Iowa businesses, at  
23 16 least one of whom shall be a retailer, and at least one of  
23 17 whom shall be a supplier.

23 18 d. Three members representing large Iowa businesses, at  
23 19 least one of whom shall be a retailer, and at least one of  
23 20 whom shall be a supplier.

23 21 e. One member representing taxpayers as a whole.

23 22 f. One member representing the retail community as a  
23 23 whole.

23 24 g. Any other member representative of business the  
23 25 director deems appropriate.

23 26 Sec. 50. Section 423.33, subsection 3, Code Supplement  
23 27 2005, is amended to read as follows:

23 28 3. EVENT SPONSOR'S LIABILITY FOR SALES TAX. A person  
23 29 sponsoring a flea market or a craft, antique, coin, or stamp  
23 30 show or similar event shall obtain from every retailer selling  
23 31 tangible personal property or taxable services at the event  
23 32 proof that the retailer possesses a valid sales tax permit or  
23 33 secure from the retailer a statement, taken in good faith,  
23 34 that property or services offered for sale are not subject to  
23 35 sales tax. Failure to do so renders a sponsor of the event  
24 1 liable for payment of any sales tax, interest, and penalty due  
24 2 and owing from any retailer selling property or services at  
24 3 the event. Sections 423.31, 423.32, 423.37, 423.38, 423.39,  
24 4 423.40, 423.41, and 423.42 apply to the sponsors. For  
24 5 purposes of this subsection, a person sponsoring a flea market  
24 6 or a craft, antique, coin, or stamp show or similar event does  
24 7 not include an organization which sponsors an event ~~less than~~  
~~24 8 three times a year determined to qualify as an event involving~~  
24 9 casual sales pursuant to section 423.3, subsection 39, or the  
24 10 state fair or a fair as defined in section 174.1.

24 11 Sec. 51. Section 423.37, subsection 2, Code 2005, is  
24 12 amended to read as follows:

24 13 2. If a return required by this subchapter is not filed,  
24 14 or if a return when filed is incorrect or insufficient and the  
24 15 maker fails to file a corrected or sufficient return within  
24 16 twenty days after the same is required by notice from the  
24 17 department, the department shall determine the amount of tax  
24 18 due from information as the department may be able to obtain  
24 19 and, if necessary, may estimate the tax on the basis of  
24 20 external indices, such as number of employees of the person  
24 21 concerned, rentals paid by the person, stock on hand, or other  
24 22 factors. The determination may be made using any generally  
24 23 recognized valid and reliable sampling technique, whether or  
24 24 not the person being audited has complete records, as mutually  
24 25 agreed upon by the department and the taxpayer. The

24 26 department shall give notice of the determination to the  
24 27 person liable for the tax. The determination shall fix the  
24 28 tax unless the person against whom it is assessed shall,  
24 29 within sixty days after the giving of notice of the  
24 30 determination, apply to the director for a hearing or unless  
24 31 the taxpayer contests the determination by paying the tax,  
24 32 interest, and penalty and timely filing a claim for refund.  
24 33 At the hearing, evidence may be offered to support the  
24 34 determination or to prove that it is incorrect. After the  
24 35 hearing the director shall give notice of the decision to the  
25 1 person liable for the tax.

25 2 Sec. 52. Section 423B.1, subsection 3, Code 2005, is  
25 3 amended to read as follows:

25 4 3. A local option tax shall be imposed only after an  
25 5 election at which a majority of those voting on the question  
25 6 favors imposition and shall then be imposed until repealed as  
25 7 provided in subsection 6, paragraph "a". If the tax is a  
25 8 local vehicle tax imposed by a county, it shall apply to all  
25 9 incorporated and unincorporated areas of the county. If the  
25 10 tax is a local sales and services tax imposed by a county, it  
25 11 shall only apply to those incorporated areas and the  
25 12 unincorporated area of that county in which a majority of  
25 13 those voting in the area on the tax favors its imposition.  
25 14 For purposes of the local sales and services tax, all cities  
25 15 contiguous to each other shall be treated as part of one  
25 16 incorporated area and the tax would be imposed in each of  
25 17 those contiguous cities only if the majority of those voting  
25 18 in the total area covered by the contiguous cities favors its  
25 19 imposition. In the case of a local sales and services tax

25 20 submitted to the registered voters of two or more contiguous  
25 21 counties as provided in subsection 4, paragraph "c", all  
25 22 cities contiguous to each other shall be treated as part of  
25 23 one incorporated area, even if the corporate boundaries of one  
25 24 or more of the cities include areas of more than one county,  
25 25 and the tax shall be imposed in each of those contiguous  
25 26 cities only if a majority of those voting on the tax in the  
25 27 total area covered by the contiguous cities favored its

25 28 imposition. For purposes of the local sales and services tax,  
25 29 a city is not contiguous to another city if the only road  
25 30 access between the two cities is through another state.

25 31 Sec. 53. Section 423B.1, subsection 4, Code 2005, is  
25 32 amended by adding the following new paragraph:

25 33 NEW PARAGRAPH. c. Upon receipt of petitions or motions  
25 34 calling for the submission of the question of the imposition  
25 35 of a local sales and services tax as described in paragraph  
26 1 "a" or "b", the boards of supervisors of two or more  
26 2 contiguous counties in which the question is to be submitted  
26 3 may enter into a joint agreement providing that for purposes  
26 4 of this chapter, a city whose corporate boundaries include  
26 5 areas of more than one county shall be treated as part of the  
26 6 county in which a majority of the residents of the city  
26 7 reside. In such event, the county commissioners of elections  
26 8 from each such county shall cooperate in the selection of a  
26 9 single date upon which the election shall be held, and for all  
26 10 purposes of this chapter relating to the imposition, repeal,  
26 11 change of use, or collection of the tax, such a city shall be  
26 12 deemed to be part of the county in which a majority of the  
26 13 residents of the city reside. A copy of the joint agreement  
26 14 shall be provided promptly to the director of revenue.

26 15 Sec. 54. Section 423B.1, subsection 6, paragraph a, Code  
26 16 2005, is amended to read as follows:

26 17 a. If a majority of those voting on the question of  
26 18 imposition of a local option tax favors imposition of a local  
26 19 option tax, the governing body of that county shall impose the  
26 20 tax at the rate specified for an unlimited period. However,  
26 21 in the case of a local sales and services tax, the county  
26 22 shall not impose the tax in any incorporated area or the  
26 23 unincorporated area if the majority of those voting on the tax  
26 24 in that area did not favor its imposition. For purposes of  
26 25 the local sales and services tax, all cities contiguous to  
26 26 each other shall be treated as part of one incorporated area  
26 27 and the tax shall be imposed in each of those contiguous  
26 28 cities only if the majority of those voting on the tax in the  
26 29 total area covered by the contiguous cities favored its  
26 30 imposition. In the case of a local sales and services tax

26 31 submitted to the registered voters of two or more contiguous  
26 32 counties as provided in subsection 4, paragraph "c", all  
26 33 cities contiguous to each other shall be treated as part of  
26 34 one incorporated area, even if the corporate boundaries of one  
26 35 or more of the cities include areas of more than one county,  
27 1 and the tax shall be imposed in each of those contiguous  
27 2 cities only if a majority of those voting on the tax in the  
27 3 total area covered by the contiguous cities favored its  
27 4 imposition.

27 5 PARAGRAPH DIVIDED. The local option tax may be repealed or  
27 6 the rate increased or decreased or the use thereof changed  
27 7 after an election at which a majority of those voting on the  
27 8 question of repeal or rate or use change favored the repeal or  
27 9 rate or use change. The date on which the repeal, rate, or  
27 10 use change is to take effect shall not be earlier than ninety  
27 11 days following the election. The election at which the  
27 12 question of repeal or rate or use change is offered shall be  
27 13 called and held in the same manner and under the same  
27 14 conditions as provided in subsections 4 and 5 for the election  
27 15 on the imposition of the local option tax. However, in the  
27 16 case of a local sales and services tax where the tax has not  
27 17 been imposed countywide, the question of repeal or imposition  
27 18 or rate or use change shall be voted on only by the registered  
27 19 voters of the areas of the county where the tax has been  
27 20 imposed or has not been imposed, as appropriate. However, the  
27 21 governing body of the incorporated area or unincorporated area  
27 22 where the local sales and services tax is imposed may, upon  
27 23 its own motion, request the county commissioner of elections  
27 24 to hold an election in the incorporated or unincorporated  
27 25 area, as appropriate, on the question of the change in use of  
27 26 local sales and services tax revenues. The election may be  
27 27 held at any time but not sooner than sixty days following  
27 28 publication of the ballot proposition. If a majority of those  
27 29 voting in the incorporated or unincorporated area on the  
27 30 change in use favors the change, the governing body of that

27 31 area shall change the use to which the revenues shall be used.  
27 32 The ballot proposition shall list the present use of the  
27 33 revenues, the proposed use, and the date after which revenues  
27 34 received will be used for the new use.

27 35 When submitting the question of the imposition of a local  
28 1 sales and services tax, the county board of supervisors may  
28 2 direct that the question contain a provision for the repeal,  
28 3 without election, of the local sales and services tax on a  
28 4 specific date, which date shall be as provided in section  
28 5 423B.6, subsection 1.

28 6 Sec. 55. Section 423B.5, unnumbered paragraph 1, Code  
28 7 Supplement 2005, is amended to read as follows:

28 8 A local sales and services tax at the rate of not more than  
28 9 one percent may be imposed by a county on the sales price  
28 10 taxed by the state under chapter 423, subchapter II. A local  
28 11 sales and services tax shall be imposed on the same basis as  
28 12 the state sales and services tax or in the case of the use of  
28 13 natural gas, natural gas service, electricity, or electric  
28 14 service on the same basis as the state use tax and shall not  
28 15 be imposed on the sale of any property or on any service not  
28 16 taxed by the state, except the tax shall not be imposed on the  
28 17 sales price from the sale of motor fuel or special fuel as  
28 18 defined in chapter 452A which is consumed for highway use or  
28 19 in watercraft or aircraft if the fuel tax is paid on the  
28 20 transaction and a refund has not or will not be allowed, on  
28 21 the sales price from the sale of equipment by the state  
28 22 department of transportation, and except the tax shall not be  
28 23 imposed on the sales price from the sale or use of natural  
28 24 gas, natural gas service, electricity, or electric service in  
28 25 a city or county where the sales price from the sale of  
28 26 natural gas or electric energy is subject to a franchise fee  
28 27 or user fee during the period the franchise or user fee is  
28 28 imposed. A local sales and services tax is applicable to  
28 29 transactions within those incorporated and unincorporated  
28 30 areas of the county where it is imposed and shall be collected  
28 31 by all persons required to collect state sales taxes. All  
28 32 cities contiguous to each other shall be treated as part of  
28 33 one incorporated area and the tax would be imposed in each of  
28 34 those contiguous cities only if the majority of those voting  
28 35 in the total area covered by the contiguous cities favors its  
29 1 imposition. In the case of a local sales and services tax  
29 2 submitted to the registered voters of two or more contiguous  
29 3 counties as provided in section 423B.1, subsection 4,  
29 4 paragraph "c", all cities contiguous to each other shall be  
29 5 treated as part of one incorporated area, even if the  
29 6 corporate boundaries of one or more of the cities include  
29 7 areas of more than one county, and the tax shall be imposed in  
29 8 each of those contiguous cities only if a majority of those  
29 9 voting on the tax in the total area covered by the contiguous  
29 10 cities favored its imposition.

29 11 Sec. 56. Section 425.11, subsection 4, Code Supplement  
29 12 2005, is amended to read as follows:

29 13 4. The word "owner" shall mean the person who holds the  
29 14 fee simple title to the homestead, and in addition shall mean  
29 15 the person occupying as a surviving spouse or the person  
29 16 occupying under a contract of purchase which contract has been  
29 17 recorded in the office of the county recorder of the county in  
29 18 which the property is located; or the person occupying the  
29 19 homestead under devise or by operation of the inheritance laws  
29 20 where the whole interest passes or where the divided interest  
29 21 is shared only by persons related or formerly related to each  
29 22 other by blood, marriage or adoption; or the person occupying  
29 23 the homestead is a shareholder of a family farm corporation  
29 24 that owns the property; or the person occupying the homestead  
29 25 under a deed which conveys a divided interest where the  
29 26 divided interest is shared only by persons related or formerly  
29 27 related to each other by blood, marriage or adoption; or where  
29 28 the person occupying the homestead holds a life estate with  
29 29 the reversion interest held by a nonprofit corporation  
29 30 organized under chapter 504, provided that the holder of the  
29 31 life estate is liable for and pays property tax on the  
29 32 homestead; or where the person occupying the homestead holds  
29 33 an interest in a horizontal property regime under chapter  
29 34 499B, regardless of whether the underlying land committed to  
29 35 the horizontal property regime is in fee or as a leasehold  
30 1 interest, provided that the holder of the interest in the  
30 2 horizontal property regime is liable for and pays property tax  
30 3 on the homestead; or where the person occupying the homestead  
30 4 is a member of a community land trust as defined in 42 U.S.C.  
30 5 } 12773, regardless of whether the underlying land is in fee  
30 6 or as a leasehold interest, provided that the member of the

30 7 community land trust is occupying the homestead and is liable  
30 8 for and pays property tax on the homestead. For the purpose  
30 9 of this chapter the word "owner" shall be construed to mean a  
30 10 bona fide owner and not one for the purpose only of availing  
30 11 the person of the benefits of this chapter. In order to  
30 12 qualify for the homestead tax credit, evidence of ownership  
30 13 shall be on file in the office of the clerk of the district  
30 14 court or recorded in the office of the county recorder at the  
30 15 time the owner files with the assessor a verified statement of  
30 16 the homestead claimed by the owner as provided in section  
30 17 425.2.

30 18 Sec. 57. Section 427.1, subsection 2, Code Supplement  
30 19 2005, is amended to read as follows:

30 20 2. MUNICIPAL AND MILITARY PROPERTY. The property of a  
30 21 county, township, city, school corporation, levee district,  
30 22 drainage district, or the Iowa national guard, when devoted to  
30 23 public use and not held for pecuniary profit, except property  
30 24 of a municipally owned electric utility held under joint  
30 25 ownership and property of an electric power facility financed  
30 26 under chapter 28F or 476A that shall be subject to taxation  
30 27 under chapter 437A and facilities of a municipal utility that  
30 28 are used for the provision of local exchange services pursuant  
30 29 to chapter 476, but only to the extent such facilities are  
30 30 used to provide such services, which shall be subject to  
30 31 taxation under chapter 433, except that section 433.11 shall  
30 32 not apply. The exemption for property owned by a city or  
30 33 county also applies to property which is operated by a city or  
30 34 county as a library, art gallery or museum, conservatory,  
30 35 botanical garden or display, observatory or science museum, or  
31 1 as a location for holding athletic contests, sports or  
31 2 entertainment events, expositions, meetings or conventions, or  
31 3 leased from the city or county for any such purposes, or  
31 4 leased from the city or county by the Iowa national guard or  
31 5 by a federal agency for the benefit of the Iowa national guard  
31 6 when devoted for public use and not for pecuniary profit.  
31 7 Food and beverages may be served at the events or locations  
31 8 without affecting the exemptions, provided the city has  
31 9 approved the serving of food and beverages on the property if  
31 10 the property is owned by the city or the county has approved  
31 11 the serving of food and beverages on the property if the  
31 12 property is owned by the county. The exemption for property  
31 13 owned by a city or county also applies to property which is  
31 14 located at an airport and leased to a fixed base operator  
31 15 providing aeronautical services to the public.

31 16 Sec. 58. Section 427.1, subsection 21A, Code Supplement  
31 17 2005, is amended to read as follows:

31 18 21A. DWELLING UNIT PROPERTY OWNED BY NONPROFIT  
31 19 ORGANIZATIONS. Dwelling unit property owned and managed by a  
31 20 nonprofit organization if the nonprofit organization owns and  
31 21 manages more than forty dwelling units that are located in a  
31 22 city with a population of more than one hundred ten thousand  
31 23 which has a public housing authority that does not own or  
31 24 manage housing stock for the purpose of low-rent housing. For  
31 25 the 2005 and 2006 assessment years, an application is not  
31 26 required to be filed to receive the exemption. For the 2007  
31 27 and subsequent assessment years, an application for exemption  
31 28 must be filed with the assessing authority not later than  
31 29 February 1 of the assessment year for which the exemption is  
31 30 sought. Upon the filing and allowance of the claim, the claim  
31 31 shall be allowed on the property for successive years without  
31 32 further filing as long as the property continues to qualify  
31 33 for the exemption.

31 34 Sec. 59. Section 427A.1, Code 2005, is amended by adding  
31 35 the following new subsection:

32 1 NEW SUBSECTION. 5A. Notwithstanding the other provisions  
32 2 of this section, property that is equipment used for the  
32 3 washing, waxing, drying, or vacuuming of motor vehicles and  
32 4 point-of-sale equipment necessary for the purchase of car wash  
32 5 services shall not be assessed and taxed as real property.

32 6 Sec. 60. Section 432.12C, Code 2005, is amended to read as  
32 7 follows:

32 8 432.12C INVESTMENT TAX CREDITS.

32 9 1. The tax imposed under this chapter shall be reduced by  
32 10 an investment tax credit authorized pursuant to section 15E.43  
32 11 for an investment in a qualifying business or a  
32 12 community-based seed capital fund.

32 13 2. The taxes imposed under this division shall be reduced  
32 14 by investment tax credits authorized pursuant to sections  
32 15 15.333A and 15E.193B, subsection 6.

32 16 Sec. 61. NEW SECTION. 432.12H TAX CREDIT FOR CERTAIN  
32 17 SALES TAXES PAID BY THIRD-PARTY DEVELOPERS.

32 18 The taxes imposed under this chapter shall be reduced by a  
32 19 tax credit authorized pursuant to section 15.331C for certain  
32 20 sales taxes paid by a third-party developer.

32 21 Sec. 62. NEW SECTION. 432.12I IOWA FUND OF FUNDS TAX  
32 22 CREDIT.

32 23 The taxes imposed under this chapter shall be reduced by a  
32 24 tax credit authorized pursuant to section 15E.66, if redeemed,  
32 25 for investments in the Iowa fund of funds.

32 26 Sec. 63. Section 441.38, subsection 2, Code Supplement  
32 27 2005, is amended to read as follows:

32 28 2. ~~Notice~~ If the appeal to district court is taken from  
32 29 the action of the local board of review, notice of appeal  
32 30 shall be served as an original notice on the chairperson,  
32 31 presiding officer, or clerk of the board of review within  
~~32 32 twenty days after its adjournment or May 31, whichever is~~  
~~32 33 later, and after the filing of notice under subsection 1 with~~  
32 34 the clerk of district court. If the appeal to district court  
32 35 is taken from the action of the property assessment appeal  
33 1 board, notice of appeal shall be served as an original notice  
33 2 on the secretary of the property assessment appeal board, if  
~~33 3 applicable after the filing of notice under subsection 1 with~~  
33 4 the clerk of district court.

33 5 Sec. 64. Section 468.55, Code 2005, is amended to read as  
33 6 follows:

33 7 468.55 ASSESSMENTS == MATURITY AND COLLECTION.

33 8 If a landowner selects an option provided in section  
33 9 468.57, all drainage or levee tax assessments become due and  
33 10 payable with the first half of ordinary taxes, and shall be  
33 11 collected in the same manner with the same interest for  
33 12 delinquency and the same manner of enforcing collection by tax  
33 13 sales. As an alternative, the ~~certifying authority may~~  
~~33 14 request that landowner may pay the annual installment be~~  
~~33 15 payable~~ in two equal payments, one-half with the September  
33 16 payment of ordinary taxes and one-half payable with the March  
33 17 payment of ordinary taxes. All drainage or levee tax  
33 18 assessments not optioned for installment payments by the  
33 19 landowner shall become due and payable within thirty days  
33 20 after the levy of assessments.

33 21 Sec. 65. Section 533.24, Code Supplement 2005, is amended  
33 22 by adding the following new subsections:

33 23 NEW SUBSECTION. 8. The moneys and credits tax imposed  
33 24 under this section shall be reduced by an investment tax  
33 25 credit authorized pursuant to section 15.333.

33 26 NEW SUBSECTION. 9. The moneys and credits tax imposed  
33 27 under this section shall be reduced by a tax credit authorized  
33 28 pursuant to section 15.331C for certain sales taxes paid by a  
33 29 third-party developer.

33 30 NEW SUBSECTION. 10. The moneys and credits tax imposed  
33 31 under this section shall be reduced by a tax credit authorized  
33 32 pursuant to section 15E.66, if redeemed, for investments in  
33 33 the Iowa fund of funds.

33 34 Sec. 66. 2005 Iowa Acts, chapter 140, section 72, is  
33 35 amended to read as follows:

34 1 SEC. 72. REFUNDS. Refunds of taxes, interest, or  
34 2 penalties which arise from claims resulting from the amendment  
34 3 to section 423.3, subsection 5, in this division of this Act,  
34 4 for the sale of agricultural drain tile materials occurring  
34 5 between January 1, 1998, and the effective date of the section  
34 6 amending section 423.3, subsection 5, in this division of this  
34 7 Act, shall be limited to ~~twenty-five~~ fifty thousand dollars in  
34 8 the aggregate and shall not be allowed unless refund claims  
34 9 are filed prior to October 1, 2005, notwithstanding any other  
34 10 provision of law. If the amount of claims totals more than  
34 11 ~~twenty-five~~ fifty thousand dollars in the aggregate, the  
34 12 department of revenue shall prorate the ~~twenty-five~~ fifty  
34 13 thousand dollars among all claimants in relation to the  
34 14 amounts of the claimants' valid claims.

34 15 Sec. 67. 2005 Iowa Acts, chapter 179, section 100, is  
34 16 amended to read as follows:

34 17 SEC. 100. COUNTY REAL ESTATE ELECTRONIC GOVERNMENT  
34 18 ADVISORY COMMITTEE.

34 19 1. A county real estate electronic government advisory  
34 20 committee is created. ~~Staffing services for the advisory~~  
~~34 21 committee shall be provided by the auditor of state.~~ The  
34 22 advisory committee membership shall consist of the following:

34 23 a. Two members selected by the Iowa state association of  
34 24 county auditors.

34 25 b. Two members selected by the Iowa state county  
34 26 treasurers association.

34 27 c. Two members selected by the Iowa county recorders  
34 28 association.

34 29 d. Two members selected by the Iowa state association of  
34 30 assessors.

34 31 e. One member selected by each of the following  
34 32 organizations:

- 34 33 (1) Iowa state association of counties.
- 34 34 (2) Iowa land title association.
- 34 35 (3) Iowa bankers association.
- 35 1 (4) Iowa credit union league.
- 35 2 (5) Iowa state bar association.
- 35 3 (6) Iowa association of realtors.

35 4 2. The county real estate electronic government advisory  
35 5 committee shall facilitate discussion to integrate the county  
35 6 land record information system ~~created pursuant to section~~  
35 7 ~~331.605C~~ with the electronic government internet applications  
35 8 of county treasurers, county recorders, county auditors, and  
35 9 county assessors. The advisory committee shall file an  
35 10 updated integration plan with the governor and the general  
35 11 assembly on or before November 1, ~~2005~~ 2006.

35 12 Sec. 68. 2005 Iowa Acts, chapter 179, section 101,  
35 13 subsection 3, is repealed.

35 14 Sec. 69. EFFECTIVE AND APPLICABILITY DATES.

35 15 1. The sections of this division of this Act amending  
35 16 section 422.12C, subsection 2, apply retroactively to January  
35 17 1, 2006, for tax years beginning on or after that date.

35 18 2. The section of this division of this Act amending  
35 19 section 425.11, being deemed of immediate importance, takes  
35 20 effect upon enactment and applies to taxes due and payable in  
35 21 fiscal years beginning on or after July 1, 2006.

35 22 3. The section of this division of this Act enacting  
35 23 section 427A.1, subsection 5A, being deemed of immediate  
35 24 importance, takes effect upon enactment and applies  
35 25 retroactively to January 1, 2006, for assessment years  
35 26 beginning on or after that date.

35 27 4. The section of this division of this Act amending 2005  
35 28 Iowa Acts, chapter 140, section 72, being deemed of immediate  
35 29 importance, takes effect upon enactment and applies  
35 30 retroactively to June 30, 2005.

#### 35 31 DIVISION II

#### 35 32 STREAMLINED SALES AND USE TAX UPDATES

35 33 Sec. 70. Section 423.2, subsection 8, Code Supplement  
35 34 2005, is amended by striking the subsection and inserting in  
35 35 lieu thereof the following:

36 1 8. a. A tax of five percent is imposed on the sales price  
36 2 from sales of bundled transactions. For the purposes of this  
36 3 subsection, a "bundled transaction" is the retail sale of two  
36 4 or more distinct and identifiable products, except real  
36 5 property and services to real property, which are sold for one  
36 6 nonitemized price. A "bundled transaction" does not include  
36 7 the sale of any products in which the sales price varies, or  
36 8 is negotiable, based on the selection by the purchaser of the  
36 9 products included in the transaction.

36 10 b. "Distinct and identifiable products" does not include  
36 11 any of the following:

36 12 (1) Packaging or other materials that accompany the retail  
36 13 sale of the products and are incidental or immaterial to the  
36 14 retail sale of the products.

36 15 (2) A product provided free of charge with the required  
36 16 purchase of another product. A product is "provided free of  
36 17 charge" if the sales price of the product purchased does not  
36 18 vary depending on the inclusion of the product which is  
36 19 provided free of charge.

36 20 (3) Items included in the definition of "sales price"  
36 21 pursuant to section 423.1.

36 22 c. "One nonitemized price" does not include a price that  
36 23 is separately identified by product on binding sales or other  
36 24 supporting sales-related documentation made available to the  
36 25 customer in paper or electronic form.

36 26 Sec. 71. Section 423.18, Code Supplement 2005, is amended  
36 27 by striking the section and inserting in lieu thereof the  
36 28 following:

#### 36 29 423.18 MULTIPLE POINTS OF USE.

36 30 1. Notwithstanding the provisions of section 423.15, a  
36 31 business purchaser that is not a holder of a direct pay permit  
36 32 that knows at the time of purchase of a digital good, computer  
36 33 software, or a service that the digital good, computer  
36 34 software, or service will be concurrently available for use in  
36 35 more than one jurisdiction shall deliver to the seller in  
37 1 conjunction with its purchase an exemption certificate  
37 2 claiming multiple points of use or meet the requirements of  
37 3 subsection 2 or 3. For the purpose of this section only,  
37 4 "computer software" includes but is not limited to computer

37 5 software delivered electronically, by load and leave, or in  
37 6 tangible form. "Computer software" does not include computer  
37 7 software received in person by a business purchaser at a  
37 8 business location of the seller.

37 9 a. Upon receipt of an exemption certificate claiming  
37 10 multiple points of use, the seller is relieved of all  
37 11 obligation to collect, pay, or remit the applicable tax, and  
37 12 the purchaser shall be obligated to collect, pay, or remit the  
37 13 applicable tax on a direct pay basis.

37 14 b. A purchaser delivering an exemption certificate  
37 15 claiming multiple points of use may use any reasonable, but  
37 16 consistent and uniform, method of apportionment that is  
37 17 supported by the purchaser's business books and records as  
37 18 they exist at the time the transaction is reported for sales  
37 19 or use tax purposes.

37 20 c. A purchaser delivering an exemption certificate  
37 21 claiming multiple points of use shall report and pay the  
37 22 appropriate tax to each jurisdiction where concurrent use  
37 23 occurs. The tax due shall be calculated as if the apportioned  
37 24 amount of the digital good, computer software, or service had  
37 25 been delivered to each jurisdiction to which the sale is  
37 26 apportioned pursuant to paragraph "b".

37 27 d. The exemption certificate claiming multiple points of  
37 28 use shall remain in effect for all future sales by the seller  
37 29 to the purchaser, except as to the subsequent sale's specific  
37 30 apportionment that is governed by the principles of paragraphs  
37 31 "b" and "c", until the exemption certificate is revoked in  
37 32 writing.

37 33 2. Notwithstanding subsection 1, when the seller knows  
37 34 that the product will be concurrently available for use in  
37 35 more than one jurisdiction, but the purchaser does not provide  
38 1 an exemption certificate claiming multiple points of use as  
38 2 required in subsection 1, the seller may work with the  
38 3 purchaser to produce the correct apportionment. The purchaser  
38 4 and seller may use any reasonable, but consistent and uniform,  
38 5 method of apportionment that is supported by the seller's and  
38 6 purchaser's business books and records as they exist at the  
38 7 time the transaction is reported for sales or use tax  
38 8 purposes. If the purchaser certifies the accuracy of the  
38 9 apportionment and the seller accepts the certification, the  
38 10 seller shall collect and remit the tax pursuant to subsection  
38 11 1, paragraph "c". In the absence of bad faith, the seller is  
38 12 relieved of any further obligation to collect tax on any  
38 13 transaction where the seller has collected tax pursuant to the  
38 14 information certified by the purchaser.

38 15 3. When the seller knows that the product will be  
38 16 concurrently available for use in more than one jurisdiction  
38 17 and the purchaser does not have a direct pay permit and does  
38 18 not provide the seller with an exemption certificate claiming  
38 19 a multiple points of use exemption as required in subsection  
38 20 1, or certification pursuant to subsection 2, the seller shall  
38 21 collect and remit the tax based on the provisions of section  
38 22 423.15.

38 23 4. A holder of a direct pay permit shall not be required  
38 24 to deliver an exemption certificate claiming multiple points  
38 25 of use to the seller. A direct pay permit holder shall follow  
38 26 the provisions of subsection 1, paragraphs "b" and "c", in  
38 27 apportioning the tax due on a digital good, computer software,  
38 28 or a service that will be concurrently available for use in  
38 29 more than one jurisdiction.

38 30 5. Nothing in this section shall limit a person's  
38 31 obligation for sales or use tax to this state in which the  
38 32 qualifying purchases are concurrently available for use, or  
38 33 limit a person's ability under local, state, federal, or  
38 34 constitutional law, to claim a credit for sales or use taxes  
38 35 legally due and paid to other jurisdictions.

39 1 Sec. 72. Section 423.20, subsection 1, paragraph j, Code  
39 2 2005, is amended to read as follows:

39 3 j. "Postpaid calling service" means the telecommunications  
39 4 service obtained by making a payment on a call-by-call basis  
39 5 either through the use of a credit card or payment mechanism  
39 6 such as a bank card, travel card, credit card, or debit card,  
39 7 or by charge made to a telephone number which is not  
39 8 associated with the origination or termination of the  
39 9 telecommunications service. A "postpaid calling service"  
39 10 includes a telecommunications service, except a prepaid  
39 11 wireless calling service, that would be a prepaid calling  
39 12 service except it is not exclusively a telecommunications  
39 13 service.

39 14 Sec. 73. Section 423.20, subsection 1, Code 2005, is  
39 15 amended by adding the following new paragraph after paragraph

39 16 k, and relettering the remaining paragraphs:

39 17 NEW PARAGRAPH. 1. "Prepaid wireless calling service"  
39 18 means a telecommunications service that provides the right to  
39 19 utilize mobile wireless service as well as other  
39 20 nontelecommunications services, including the download of  
39 21 digital products delivered electronically, content and  
39 22 ancillary services, which must be paid for in advance and that  
39 23 is sold in predetermined units or dollars of which the amount  
39 24 declines with use in a known amount.

39 25 Sec. 74. Section 423.20, subsection 2, paragraph c,  
39 26 subparagraphs (1) and (3), Code 2005, are amended to read as  
39 27 follows:

39 28 (1) A sale of mobile telecommunications services other  
39 29 than air-to-ground radiotelephone service, ~~or~~ prepaid calling  
39 30 service, ~~or prepaid wireless calling service~~ is sourced to the  
39 31 customer's place of primary use as required by the federal  
39 32 Mobile Telecommunications Sourcing Act.

39 33 (3) A sale of prepaid calling service ~~or a sale of prepaid~~  
39 34 ~~wireless calling service~~ is sourced in accordance with section  
39 35 423.15. However, in the case of a sale of ~~mobile~~

~~40 1 telecommunications services that is a prepaid~~  
~~40 2 telecommunications a prepaid wireless calling~~ service, the  
40 3 rule provided in section 423.15, subsection 1, paragraph "e",  
40 4 shall include as an option the location associated with the  
40 5 mobile telephone number.

40 6 Sec. 75. Section 423.45, subsection 4, paragraph b, Code  
40 7 2005, is amended to read as follows:

40 8 b. The sales tax liability for all sales of tangible  
40 9 personal property and all sales of services is upon the seller  
40 10 and the purchaser unless the seller takes ~~in good faith~~ from  
40 11 the purchaser a valid exemption certificate stating under  
40 12 penalty of perjury that the purchase is for a nontaxable  
40 13 purpose and is not a retail sale as defined in section 423.1,  
40 14 or the seller is not obligated to collect tax due, or unless  
40 15 the seller takes a fuel exemption certificate pursuant to  
40 16 subsection 5. If the tangible personal property or services  
40 17 are purchased tax free pursuant to a valid exemption  
40 18 certificate ~~which is taken in good faith by the seller~~, and  
40 19 the tangible personal property or services are used or  
40 20 disposed of by the purchaser in a nonexempt manner, the  
40 21 purchaser is solely liable for the taxes and shall remit the  
40 22 taxes directly to the department and sections 423.31, 423.32,  
40 23 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42 shall apply  
40 24 to the purchaser.

40 25 Sec. 76. Section 423.45, subsection 4, paragraph d, Code  
40 26 2005, is amended by striking the paragraph and inserting in  
40 27 lieu thereof the following:

40 28 d. The protection afforded a seller by paragraph "b" does  
40 29 not apply to a seller who fraudulently fails to collect tax or  
40 30 to a seller who solicits purchasers to participate in the  
40 31 unlawful claim of an exemption.

40 32 Sec. 77. Section 423.51, subsection 2, Code 2005, is  
40 33 amended to read as follows:

40 34 2. Sellers that follow the requirements of this section  
40 35 are relieved from any tax otherwise applicable if it is  
41 1 determined that the purchaser improperly claimed an exemption  
41 2 and that the purchaser is liable for the nonpayment of tax.  
41 3 This relief from liability does not apply to a seller who  
41 4 ~~fraudulently does any of the following:~~

41 5 ~~a. Fraudulently fails to collect the tax or solicits tax.~~

41 6 ~~b. Solicits purchasers to participate in the unlawful~~  
41 7 ~~claim of an exemption.~~

41 8 ~~c. Accepts an exemption certificate when the purchaser~~  
41 9 ~~claims an entity-based exemption when the following conditions~~  
41 10 ~~are met:~~

41 11 ~~(1) The subject of the transaction sought to be covered by~~  
41 12 ~~the exemption certificate is actually received by the~~  
41 13 ~~purchaser at a location operated by the seller.~~

41 14 ~~(2) The state provides an exemption certificate that~~  
41 15 ~~clearly and affirmatively indicates that the claimed exemption~~  
41 16 ~~is not available in the state.~~

41 17 ~~d. Accepts an exemption certificate claiming multiple~~  
41 18 ~~points of use for tangible personal property other than~~  
41 19 ~~computer software for which an exemption claiming multiple~~  
41 20 ~~points of use is acceptable under section 423.18.~~

41 21 Sec. 78. Section 423.51, Code 2005, is amended by adding  
41 22 the following new subsections:

41 23 NEW SUBSECTION. 3. a. A seller otherwise obligated to  
41 24 collect tax from a purchaser is relieved of that obligation if  
41 25 the seller obtains a fully completed exemption certificate or  
41 26 secures the relevant data elements of a fully completed

41 27 exemption certificate within ninety days after the date of  
41 28 sale.  
41 29 b. If the seller has not obtained an exemption certificate  
41 30 or all relevant data elements as provided in paragraph "a",  
41 31 the seller may, within one hundred twenty days after a request  
41 32 for substantiation by the department, either prove that the  
41 33 transaction was not subject to tax by other means or obtain a  
41 34 fully completed exemption certificate from the purchaser,  
41 35 taken in good faith.

42 1 c. Nothing in this subsection shall affect the ability of  
42 2 the state to require purchasers to update exemption  
42 3 certificate information or to reapply with the state to claim  
42 4 certain exemptions.

42 5 d. Notwithstanding paragraphs "a", "b", and "c", a seller  
42 6 is relieved of its obligation to collect tax from a purchaser  
42 7 if the seller obtains a blanket exemption certificate from the  
42 8 purchaser, and the seller and purchaser have a recurring  
42 9 business relationship. For the purposes of this paragraph, a  
42 10 recurring business relationship exists when a period of no  
42 11 more than twelve months elapses between sales transactions.  
42 12 The department may not request from the seller renewal of  
42 13 blanket certificates or updates of exemption certificate  
42 14 information or data elements when there is a recurring  
42 15 business relationship between the purchaser and seller.

42 16 NEW SUBSECTION. 4. All relief that this section provides  
42 17 to sellers is also provided to certified service providers  
42 18 under this chapter.

42 19 Sec. 79. Section 423.52, Code 2005, is amended to read as  
42 20 follows:

42 21 423.52 RELIEF FROM LIABILITY FOR SELLERS AND CERTIFIED  
42 22 SERVICE PROVIDERS.

42 23 1. Sellers and certified service providers using databases  
42 24 derived from zip codes or state or vendor provided  
42 25 address-based databases are relieved from liability to this  
42 26 state or its local taxing jurisdictions for having charged and  
42 27 collected the incorrect amount of sales or use tax resulting  
42 28 from the seller or certified service provider relying on  
42 29 erroneous data provided by this state on tax rates,  
42 30 boundaries, or taxing jurisdiction assignments. If this state  
42 31 provides an address-based system for assigning taxing  
42 32 jurisdictions whether or not pursuant to the federal Mobile  
42 33 Telecommunications Sourcing Act, the director is not required  
42 34 to provide liability relief for errors resulting from reliance  
42 35 on the information provided by this state if the director has  
43 1 given adequate notice, as determined by the governing board,  
43 2 to affected parties of the decision to end this relief.

43 3 2. a. Model 2 sellers and certified service providers are  
43 4 relieved of liability to Iowa for any failure to charge and  
43 5 collect the correct amount of sales or use tax if this failure  
43 6 results from the model 2 seller's or the certified service  
43 7 provider's reliance upon this state's certification to the  
43 8 governing board that Iowa has accepted the governing board's  
43 9 certification of a piece of software as a certified automated  
43 10 system. The relief provided by this paragraph to a model 2  
43 11 seller or certified service provider does not extend to a  
43 12 seller or provider who has incorrectly classified an item or  
43 13 transaction into the product-based exemptions portion of a  
43 14 certified automated system. However, any model 2 seller or  
43 15 certified service provider who has relied upon an individual  
43 16 listing of items or transactions within a product definition  
43 17 approved by the governing board or Iowa may claim the relief  
43 18 allowed by this paragraph.

43 19 b. If the department determines that an item or  
43 20 transaction is incorrectly classified as to its taxability,  
43 21 the department shall notify the model 2 seller or certified  
43 22 service provider of the incorrect classification. The model 2  
43 23 seller or certified service provider shall have ten days to  
43 24 revise the classification after receipt of notice of the  
43 25 determination. Upon expiration of the ten days, the model 2  
43 26 seller or certified service provider shall be liable for the  
43 27 failure to collect the correct amount of sales or use taxes  
43 28 due and owing to the member state.

43 29 Sec. 80. EFFECTIVE DATES.

43 30 1. Except as provided in subsection 2, this division of  
43 31 this Act takes effect January 1, 2008.

43 32 2. The sections of this division of this Act amending  
43 33 section 423.45, subsection 4, and section 423.52, being deemed  
43 34 of immediate importance, take effect upon enactment.

43 35 HF 2794

44 1 mg/es/25